

C. Remarks

The claims are 2, 3, 5, 12 and 13, with claims 2, 3, 12 and 13 being independent. Claims 1, 4 and 7-11 have been cancelled without prejudice or disclaimer of the subject matter therein. No new matter has been added.

Applicant thanks the Examiner for allowing claims 2, 3, 12 and 13.

The Office Action entered rejections of claims 1, 4 and 7-11 under the judicially created doctrine of obviousness-type double patenting over claim 1 of U.S. Patent No. 6,653,364 B2.

In response, all rejected claims have been cancelled. The foregoing action has been taken without prejudice or disclaimer of subject matter, and without conceding correctness of the rejections, but rather strictly to obtain an earlier allowance and to expedite issuance.


In fact, Applicant disagrees with the rejection issued by the Examiner. The Examiner has acknowledged that claim 1 of the '364 patent does not disclose the instantly claimed specific resin composition. However, the Examiner alleged that such a composition would have been obvious in view of the disclosure in the specification of the '364 patent. Applicant notes that the specification of the '364 patent cannot be used as prior art to show an obvious variation in the double patenting analysis in accordance with M.P.E.P. § 804(B)(I). In fact, since the subject application is a division of the '364 patent, its disclosure may not be used as prior art.

Nonetheless, since the rejected claims have been cancelled, the rejection is moot and should be withdrawn. The only remaining claims in this case are those, which have already been allowed.

Wherefore, Applicant respectfully requests that the present case be passed to issue.

Applicant's undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address given below.

Respectfully submitted,



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